MOTION FILED NOV 17 1949

IN THE

Supreme Court of the United States

October Term, 1949.

No. 402

JOSEPH DORSEY, MONROE DOWLING and CALVIN HARPER,
Petitioners,

vs.

STUYVESANT TOWN CORPORATION and METROPOLITAN LIFE INSURANCE COMPANY.

Petition for a Writ of Certiorari to the Court of Appeals of the State of New York

Motion for Leave to File Brief as Amicus Curiae and Brief of Community Service Organization of Greater Los Angeles, Amicus Curiae.

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Parker & Company, Law Printers, Los Angeles. Phone MA. 6-9171.

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MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE.

May It Please the Court:

The undersigned, as counsel for the Community Service Organization of Greater Los Angeles, respectfully moves this Honorable Court for leave to file the accompanying brief in this case as *Amicus Curiae.* The consent of the attorney for the petitioners to the filing of this brief has been obtained.

Special reasons in support of this motion are set out in the accompanying brief.

November 15, 1949.

LOREN MILLER,
Counsel for Community Service Organization of Greater Los Angeles,
Amicus Curiae.

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BRIEF OF COMMUNITY SERVICE ORGANIZATION OF GREATER LOS ANGELES, AMICUS CURIAE.

This case involves the question whether persons may be constitutionally excluded because of race from tenancy in housing built and operated pursuant to the New York State Redevelopment Companies Law.

Statement of Interest of Community Service Organization of Greater Los Angeles.

The Community Service Organization represents the interests of Spanish-speaking people and other minorities in greater Los Angeles. It is organized to improve the conditions under which they live and to secure their rights to equal opportunity in employment, housing, health services, at the ballot box, and before the law.

Since the great majority of these people are concentrated in blighted areas now under consideration by the City and County of Los Angeles for redevelopment, the Community Service Organization insists on their right to occupancy in redeveloped areas regardless of race, creed, color, national origin or ancestry. It is our opinion that this right, denied by the New York Court of Appeals in this case, is a fundamental right guaranteed by the Federal Constitution. Because of the serious implications the New York decision has for future living patterns in redeveloped areas on the West Coast, we have asked leave of this Honorable Court to file a brief *amicus curiae*.

A Comparison Between California and New York Redevelopment Law.

Principal characteristics which the California Community Redevelopment Act (Deering's General Laws, Act 1500) shares with the New York Redevelopment Companies Law may be summarized as follows:

(a) *Objective.* Both Acts aim at the clearance, rehabilitation and redevelopment of so-called blighted areas, characterized by sub-standard buildings, faulty planning and land utilization, or other factors which make such areas social and economic liabilities to the community. (Calif. Act, Sec. 2; N. Y. Act, Sec. 2.)

(b) *Eminent domain.* The power of condemnation is invoked to make possible the assembly of large parcels of blighted land for redevelopment. (Calif. Act, Secs. 74-75; N. Y. Act, Sec. 20.)

(c) *Financial aid and inducement.* Both Acts recognize that excessive land cost is a significant factor in the failure of private enterprise to undertake redevelopment

unaided. Each has a plan for reducing land cost to a reasonable use value, as follows: In California, the local government may take a loss to the extent of 50% of the cost of the site (and more than 50%, with voters' approval). (Sec. 45.7.) In New York, the local government may grant tax exemption on the value of the improvements for any period up to 25 years. (Sec. 26.)

(d) *Participation and control by local government.* Redevelopment plans must be specifically approved by the local legislative body (Calif. Act. Sec. 70; N. Y. Act, Sec. 15); public streets may be opened, closed, widened or otherwise modified, in coordination with the redevelopment project (Calif. Act. Sec. 65; N. Y. Act, Sec. 20); in the contract executed with the purchasers of the land, conditions governing its use may be imposed over which the public agency maintains supervisory control (Calif. Act, Sec. 29(h); N. Y. Act, Sec. 21).

The Acts differ in their mechanism for accomplishing such public control. In California, the local redevelopment agency, a public body (Secs. 18, 29), sells or leases the land in the project area for redevelopment pursuant to the approved plan, and may make any of the purchaser's obligations, including such conditions as are necessary in the opinion of the agency, covenants running with the land, whose breach shall cause the fee to revert to the agency. (Sec. 29(h).) In New York, the statute contemplates that prospective purchasers of land in project areas will organize themselves into corporations pursuant to the Act, consenting to regulation of their "rents, profits, dividends, and disposition of . . . property and franchises" (N. Y. Constitution, Art. XVIII, Sec. 2; N. Y. Act, Sec. 4), such regulation being effected by the supervising agency,

who may be the city comptroller or, if an insurance company is owner of the project, the State Superintendent of Insurance. (Sec. 3(10), 21.)

Minorities Have an Important Stake in the Redevelopment Program.

Minority populations have a large and immediate stake in redevelopment. It is estimated that out of a present total population of 4,100,000 persons in the County (including the City) of Los Angeles, there are in excess of 250,000 Negroes, 350,000 Mexican-Americans, and 45,000 Orientals.[1] These groups, for reasons into which we need not enter here,[2] tend to be concentrated in blighted or substandard areas. Thus, in two areas recently proposed by the Los Angeles Regional Planning Commission to the County Board of Supervisors as likely areas for redevelopment, one, in Maravilla, has a predominantly Mexican-American population; and the other, in Duarte, is about evenly divided in population between Negroes and Mexican-Americans; and other areas reported under study for redevelopment have a similar minority character.

Under California law, the local legislative body, before approving any redevelopment plan, must find that adequate permanent housing facilities are or will be made available

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[1]From Office of Racial Relations Adviser, Federal Housing Administration, Zone 4, Los Angeles.

[2]See brochure entitled "Housing of the Non-White Population," published by Housing and Home Finance Agency, Washington, D. C., June, 1948.

for the displaced residents. (Sec. 68.) There is no requirement in the Act that the housing be made available on the same site from which such families are displaced. The County and City of Los Angeles will have to determine whether such former residents and other applicants shall be eligible for housing accommodations in the area after redevelopment, regardless of their race, creed, color, national origin or ancestry.

Do Minorities Have a Constitutional Right to Occupancy in Redeveloped Areas Without Discrimination?

The decision of the New York Court of Appeals below, which by the narrow margin of 4 to 3 votes denied Negroes a right to tenancy in a New York redevelopment project and overruled the contention that Federal constitutional guarantees were violated, has left in its wake a genuine uncertainty whether in fact the constitutional issue was properly raised.

The City and County of Los Angeles are now embarking on a program of redevelopment, and require early guidance from the Supreme Court on this issue. While the New York statute differs from the California Community Redevelopment Act, nevertheless the resemblances are such that a decision as to rights which may or may not be created under the New York law would undoubtedly be helpful to Los Angeles. The time for learning the limits of constitutional rights and disabilities on this issue is *now*, before the County and City proceed with their redevelopment program and before the racial pattern of the new redeveloped areas becomes fixed.

Conclusion.

The Community Service Organization of Greater Los Angeles requests the Court to grant the Petition for a Writ of Certiorari in this case, and thus resolve now a question of immediate importance to local governments and to citizens everywhere.

Respectfully submitted,

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